

1 Jeffrey C. Misley, WSBA # 33397
2 jmisley@sussmanshank.com
3 Laurie R. Hager, WSBA # 38643
lhager@sussmanshank.com
4 Thomas W. Stilley, WSBA #21718
tstilley@sussmanshank.com
5 SUSSMAN SHANK LLP
1000 SW Broadway, Suite 1400
6 Portland, OR 97205-3089
Telephone: (503) 227-1111
Facsimile: (503) 248-0130

Honorable Whitman L. Holt

7 *Attorneys for Defendant Cody Easterday*

8

9

10 IN THE UNITED STATES BANKRUPTCY COURT

11 EASTERN DISTRICT OF WASHINGTON

12 In re) Lead Case No. 21-00141-11 (WLH)
13 EASTERDAY RANCHES, INC., et al.,) Jointly Administered
14 Debtor(s).¹)
15 _____)
16 WASHINGTON TRUST BANK, a Washington) Franklin County Superior Court Case No.
banking corporation,) 21-2-50049-11
17 Plaintiff,) NOTICE OF REMOVAL PURSUANT TO
18 v.) 28 U.S.C. § 1452 AND FED. R. BANKR. P.
19 EASTERDAY RANCHES, INC., a Washington) 9027
20 corporation; EASTERDAY FARMS, a)
21 Washington general partnership; CODY)
22 EASTERDAY, individually; DEBBY)
23 EASTERDAY, individually; KAREN)
24 EASTERDAY, individually and in her capacity as)
personal representative of the Estate of Gale)
25 Easterday,)
26 Defendant(s).)
_____)

¹ The Debtors along with their case numbers are as follows: Easterday Ranches, Inc. (21-00141) and Easterday Farms, a Washington general Partnership (21-00176).

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1452
AND FED. R. BANKR. P. 9027 - Page 1

SUSSMAN SHANK LLP
ATTORNEYS AT LAW
1000 SW BROADWAY, SUITE 1400
PORTLAND, OREGON 97205-3089
TELEPHONE (503) 227-1111
FACSIMILE (503) 248-0130

1 Defendant Cody Easterday, pursuant to 28 U.S.C. §1452 and Fed. R. Bankr. P. 9027, has
2 removed the above-captioned action to this court, based on the following facts:

3 1. On February 1, 2021 (the “Petition Date”), Debtors and co-defendants Easterday
4 Ranches, Inc. and Easterday Farms each filed voluntary petitions for relief under
5 Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the
6 “Bankruptcy Code”) in the United States Bankruptcy Court for the Eastern District of
7 Washington.

8 2. The above referenced state court action (the “State Court Case”) was commenced prior
9 to the Petition Date by the filing of a complaint in the Superior Court for Franklin
10 County, State of Washington.

11 3. The claims raised in the State Court Case may be removed to this Court. Removal is
12 proper because the claims are: asserted in a civil action; not exempt from removal; and
13 this Court has subject matter jurisdiction over the removed claims pursuant to 28 U.S.C.
14 §§1441, 1452 and 1334. These claims are related to the Debtors’ bankruptcy
15 proceedings as they are asserted against the Debtors and the non-debtor defendants.

16 4. This court is the proper venue for removal because, under BR 9027(a)(1), notice of
17 removal is filed with the "clerk for the district and division within which is located the
18 state or federal court where the civil action is pending." BR 9001(2) defines "clerk" as
19 "bankruptcy clerk, if one has been appointed, otherwise clerk of the district court."
20 Because this court has a properly appointed bankruptcy clerk, this case is properly
21 removed directly to bankruptcy court. See *In re Aztec Industries Inc.*, 84 B.R. 464, 468
22 (ND Ohio 1987).

5. Removal is timely pursuant to BR 9027(a)(2) because the claims were pending before the Petition Date and this Notice has been filed within 90 days of the Order for Relief from the Bankruptcy Court.
6. Consent of co-defendants, if any, is not necessary for removal under 28 U.S.C. § 1452. See *Cal. Pub. Empl. Ret. Sys. v. Worldcom, Inc.*, 368 F.3d 86 (2d Cir. 2004).
7. Upon removal, all proceedings with respect to the removed claims and causes of action are core except possibly the claims against the guarantors personally. 28 USC § 157 (b) (2) (B). As to any non-core proceedings concerning such claims, Defendant consents to entry of final orders or judgment by the bankruptcy judge.
8. Pursuant to BR 9027(a)(1), copies of all Process and Pleadings in the State Court Case are filed herewith.
9. Pursuant to BR 9027(b), a copy of this Notice and related documents is being served on counsel of record for all parties to the removed action.

Dated this 12th day of April, 2021.

SUSSMAN SHANK LLP

By: /s/ Jeffrey C. Misley
Jeffrey C. Misley, WSBA 33397
jmisley@sussmanshank.com
Laurie R. Hager, WSBA 38643
lhager@sussmanshank.com
Thomas W. Stilley, WSBA 21718
tstilley@sussmanshank.com

Attorneys for Defendant Cody and Debby
Easterday

*26055-004\NOTICE OF REMOVAL (FOR FILING WITH BANKRUPTCY COURT) (03695232);1

**NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1452
AND FED. R. BANKR. P. 9027 - Page 3**

SUSSMAN SHANK LLP
ATTORNEYS AT LAW
1000 SW BROADWAY, SUITE 1400
PORTLAND, OREGON 97205-3089
TELEPHONE (503) 227-1111
FACSIMILE (503) 248-0130